

CHAPTER 976

H.B. No. 1622

AN ACT

relating to suits to enjoin gang activity that constitutes a public nuisance.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 125.061(3), Civil Practice and Remedies Code, is amended to read as follows:

(3)“Gang activity” means the following types of conduct:

- (A) organized criminal activity as described by Section 71.02, Penal Code;
- (B) terroristic threat as described by Section 22.07, Penal Code;
- (C) coercing, soliciting, or inducing gang membership as described by Section 22.015, Penal Code;
- (D) criminal trespass as described by Section 30.05, Penal Code;
- (E) disorderly conduct as described by Section 42.01, Penal Code;
- (F) criminal mischief as described by Section 28.03, Penal Code, that causes a pecuniary loss of \$500 or more;
- (G) a graffiti offense in violation of Section 28.08, Penal Code~~[, that:~~
 - ~~[(i) causes a pecuniary loss of \$500 or more; or~~
 - ~~[(ii) occurs at a school, an institution of higher education, a place of worship or human cemetery, a public monument, or a community center that provides medical, social, or educational programs];~~
- (H) a weapons offense in violation of Chapter 46, Penal Code; or
- (I) unlawful possession of a substance or other item in violation of Chapter 481, Health and Safety Code.

SECTION 2. Section 125.067(c), Civil Practice and Remedies Code, is amended to read as follows:

(c) If an appeal is not taken by a person temporarily enjoined under this subchapter, the person is entitled to a trial on the merits not later than the 90th day after the date of the temporary injunctive order, *unless otherwise ordered by the court*.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2011.

Passed by the House on May 3, 2011: Yeas 142, Nays 2, 1 present, not voting; passed by the Senate on May 25, 2011: Yeas 31, Nays 0.

Approved June 17, 2011.

Effective September 1, 2011.

CHAPTER 977

H.B. No. 1638

AN ACT

relating to the disqualification of a district or county attorney who is the subject of a criminal investigation.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 2.08, Code of Criminal Procedure, is amended to read as follows:

Art. 2.08. DISQUALIFIED. (a) District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State.

(b) *A judge of a court in which a district or county attorney represents the State shall declare the district or county attorney disqualified for purposes of Article 2.07 on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. A disqualification under this subsection applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.*

SECTION 2. The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. The prosecution of an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2011.

Passed by the House on April 7, 2011: Yeas 144, Nays 0, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 1638 on May 27, 2011: Yeas 139, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 25, 2011: Yeas 31, Nays 0.

Approved June 17, 2011.

Effective September 1, 2011.

CHAPTER 978

H.B. No. 1658

AN ACT

relating to the refund of a cash bond to a defendant in a criminal case.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 17.02, Code of Criminal Procedure, is amended to read as follows:

Art. 17.02. DEFINITION OF "BAIL BOND". A "bail bond" is a written undertaking entered into by the defendant and *the defendant's* [his] sureties for the appearance of the principal therein before a [some] court or magistrate to answer a criminal accusation; provided, however, that the defendant *on* [upon] execution of *the* [such] bail bond may deposit with the custodian of funds of the court in which the prosecution is pending current money of the United States in the amount of the bond in lieu of having sureties signing the same. Any cash funds deposited under this *article* [Article] shall be receipted for by the officer receiving the funds [same] and, *on order of the court*, [shall] be refunded, *after* [to] the defendant [if and when the defendant] complies with the conditions of *the defendant's* [his] bond, to:

(1) *any person in the name of whom a receipt was issued, in the amount reflected on the face of the receipt, including the defendant if a receipt was issued to the defendant; or*

(2) *the defendant, if no other person is able to produce a receipt for the funds*[~~and upon order of the court~~].

SECTION 2. The change in law made by this Act applies only to a cash bond that is executed on or after the effective date of this Act. A cash bond executed before the effective date of this Act is governed by the law in effect when the cash bond was executed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.